

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LONNIE DEE BROWN, )  
                        )  
Petitioner,         )  
                        )  
-vs-                   )      Case No. CIV-16-48-F  
                        )  
TRACY McCOLLUM, Warden,     )  
                        )  
Respondent.         )

**ORDER**

United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation on April 19, 2016, recommending that the petition of petitioner, Lonnie Dee Brown, for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied.

Presently before the court is the Objections to the Report and Recommendation filed by petitioner. In accordance with the 28 U.S.C. § 636(b)(1), the court has conducted a de novo review of the matter. Having done so, the court concurs with the recommendation of Magistrate Judge Purcell. The court agrees that the Oklahoma Court of Criminal Appeals's rejection of his claims was not contrary to, or an unreasonable application of, controlling Supreme Court precedent. The court finds petitioner's objections to be without merit. Therefore, the court accepts, adopts and affirms the Report and Recommendation.

Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts requires a district court to issue or deny a certificate of appealability when it enters a final order adverse to the petitioner. Section 2253(c) of Title 28 of the United States Code instructs that a certificate of appealability may issue only if

the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” Miller-El v. Cockrell, 537 U.S. 322, 327 (2003) (citing Slack v. McDaniel, 529 U.S. 473, 484 (2000)). The court incorporates the deferential standard of 28 U.S.C. § 2254(d) into its consideration of whether to issue or deny a certificate of appealability. Dockins v. Hines, 374 F.3d 935, 938 (10<sup>th</sup> Cir. 2004).

Upon review of the record, the court concludes that petitioner is not entitled to the issuance of a certificate of appealability. Thus, a certificate of appealability is denied.

Based upon the foregoing, the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell on April 19, 2016 (doc. no. 17) is **ACCEPTED, ADOPTED** and **AFFIRMED**. Petitioner, Lonnie Dee Brown’s Petition for Writ of Habeas Corpus by a Person in State Custody Pursuant to 28 U.S.C. § 2254 is **DENIED**. A certificate of appealability is also **DENIED**.

DATED May 25, 2016.



STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE